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## Health Care Committee

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# HB 1291

**Brief Description:** Improving patient safety practices.

**Sponsors:** Representatives Cody, Bailey, Morrell, Hinkle, Green, Moeller, Kessler, Haigh, Linville, Kagi, Santos and Ormsby.

### Brief Summary of Bill

- Creates the Patient Safety Account to fund patient safety and medical errors reduction programs through funds raised by (1) a charge to health care providers and facilities, and (2) payment of one percent of a plaintiff's attorney's contingency fees in actions for injuries resulting from health care.
- Provides that evidence of statements of apology or remedial acts by a health care provider is inadmissible in an action for professional negligence.

**Hearing Date:** 2/4/05

**Staff:** Chris Blake (786-7392).

### **Background:**

#### Patient Safety Measures

In 1999, the Institute of Medicine reported that between 44,000 and 98,000 people die in the United States every year due to medical errors. At the federal level, the Agency for Healthcare Research and Quality (AHRQ) funds research to reduce medical errors and increase patient safety. In 2001, AHRQ provided almost \$50 million in funding for ninety-four grants related to health care work conditions, the use of information technology, medical errors data reporting, and other patient safety projects.

In Washington, hospitals maintain quality improvement committees to improve the quality of health care services and prevent medical malpractice. Quality improvement proceedings review medical staff privileges and employee competency, collect information related to negative health care outcomes, and conduct safety improvement activities. Provider groups and medical facilities other than hospitals are encouraged to conduct similar activities.

#### Offers of Settlement

Under both a statute and a court rule, evidence of furnishing or offering to pay medical expenses needed as the result of an injury is not admissible in a civil action to prove liability for the injury. In addition, a court rule provides that evidence of offers of compromise are not admissible to

prove liability for a claim. Evidence of conduct or statements made in compromise negotiations are likewise not admissible.

In 2002, the Legislature passed legislation that makes expressions of sympathy relating to the pain, suffering, or death of an injured person inadmissible in a civil trial. A statement of fault, however, is not made inadmissible under this provision.

### **Summary of Bill:**

#### Patient Safety Account

The "Patient Safety Account" (account) is created. The account is to be funded in two ways. First, the Secretary of Health must collect a two dollar surcharge on licenses for sixteen health professions and two dollars per licensed bed are charged to acute care hospitals and psychiatric hospitals. Second, one percent of the contingency fee for an attorney representing the prevailing plaintiff in an action for injuries resulting from health care must be provided to the Department of Health (Department) for transfer into the account.

The account is an appropriated account that is to be used for grants, loans, and other arrangements that support efforts to reduce medical errors and enhance patient safety. The Department must establish criteria for the types of programs to receive funds. The criteria must emphasize evidence-based practices recommended by governmental and private organizations including the Agency for Healthcare Research and Quality, the Institute of Medicine, the Joint Commission on Accreditation of Health Care Organizations, and the National Quality Forum. At least two of the projects must implement recommendations of the Institute of Medicine's report *Keeping Patients Safe: Transforming the Work Environment of Nurses*. Funding priority is given to projects that are proven to enhance patient safety and reduce medical errors as opposed to those that only have a substantial likelihood of doing so.

By December 1, 2008, the Department must report to the Legislature about the funds raised, criteria developed, and projects funded.

#### Statements of Apology

Limitations on the admissibility of evidence in civil proceedings of offers to pay medical expenses in professional negligence cases are expanded to protect (1) statements or conduct expressing apology, fault, or sympathy or (2) statements regarding remedial actions that may be taken to address the act.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed, except for section 103 which is effective immediately.